

House File 639 - Introduced

HOUSE FILE 639

BY JONES

A BILL FOR

1 An Act authorizing the direct shipment and delivery of native
2 distilled spirits, providing for fees, and making penalties
3 applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 34, Code 2021, is
2 amended to read as follows:

3 34. "*Native distilled spirits*" means spirits ~~fermented,~~
4 ~~distilled,~~ manufactured or, for a period of two years, barrel
5 matured on the licensed premises of the native distillery
6 where ~~fermented, distilled,~~ manufactured or matured. "*Native*
7 *distilled spirits*" also includes blended or mixed spirits
8 comprised solely of spirits ~~fermented, distilled,~~ manufactured
9 or, for a period of two years, barrel matured at a native
10 distillery.

11 Sec. 2. Section 123.32, subsection 1, paragraph b, Code
12 2021, is amended by adding the following new subparagraphs:

13 NEW SUBPARAGRAPH. (12) A native distilled spirits direct
14 shipper permit as provided in section 123.43B.

15 NEW SUBPARAGRAPH. (13) A native distilled spirits carrier
16 permit as provided in section 123.43C.

17 Sec. 3. Section 123.43A, subsection 2, Code 2021, is amended
18 to read as follows:

19 2. A native distillery shall not sell more than one and
20 one-half liters per person per day, of native distilled spirits
21 on the premises of the native distillery. However, a native
22 distillery which, combining all production facilities of the
23 business, produces and manufactures not more than one hundred
24 thousand proof gallons of native distilled spirits on an annual
25 basis, may sell not more than nine liters per person per day,
26 of native distilled spirits. ~~In addition, a~~ Except as provided
27 in section 123.43B, a native distillery shall not directly
28 ship native distilled spirits for sale at retail. The native
29 distillery shall maintain records of individual purchases of
30 native distilled spirits at the native distillery for three
31 years.

32 Sec. 4. NEW SECTION. 123.43B **Direct shipment of native**
33 **distilled spirits — permit and requirements.**

34 1. A manufacturer of native distilled spirits licensed or
35 permitted pursuant to laws regulating alcoholic beverages in

1 this state or another state may apply for a direct shipper
2 permit, as provided in this section. All shipments of native
3 distilled spirits shall be made through the state's wholesale
4 distribution system.

5 2. a. Only a manufacturer of native distilled spirits that
6 holds a direct shipper permit issued pursuant to this section
7 shall sell native distilled spirits at retail for direct
8 shipment to any person within this state or another state.
9 This section shall not prohibit an authorized retail licensee
10 or permittee from delivering native distilled spirits pursuant
11 to section 123.46A.

12 b. A manufacturer of native distilled spirits applying
13 for a direct shipper permit shall submit an application for
14 the permit electronically, or in a manner prescribed by the
15 administrator, accompanied by a true copy of the manufacturer's
16 current alcoholic beverage license or permit issued by the
17 state where the manufacturer is primarily located and a copy
18 of the manufacturer's basic permit issued by the alcohol and
19 tobacco tax and trade bureau of the United States department of
20 the treasury.

21 c. An application submitted pursuant to paragraph "b" shall
22 be accompanied by a permit fee in the amount of twenty-five
23 dollars.

24 d. An application submitted pursuant to paragraph "b"
25 shall also be accompanied by a bond in the amount of five
26 thousand dollars in the form prescribed and furnished by the
27 division with good and sufficient sureties to be approved by
28 the division conditioned upon compliance with this chapter.

29 e. A permit issued pursuant to this section may be
30 renewed annually by submitting a renewal application with the
31 administrator in a manner prescribed by the administrator,
32 accompanied by the twenty-five dollar permit fee.

33 3. The direct shipment of native distilled spirits pursuant
34 to this section shall be subject to the following requirements
35 and restrictions:

1 *a.* All native distilled spirits shipped directly to a
2 resident of this state shall only be shipped to a resident
3 who is at least twenty-one years of age, for the resident's
4 personal use and consumption and not for resale.

5 *b.* Native distilled spirits subject to direct shipping shall
6 be properly registered with the federal alcohol and tobacco tax
7 and trade bureau, and manufactured on the native distillery
8 premises of the direct shipper permittee.

9 *c.* All containers of native distilled spirits shipped
10 directly to a resident of this state shall be conspicuously
11 labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF
12 PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or shall be
13 conspicuously labeled with alternative wording preapproved by
14 the administrator.

15 *d.* All containers of native distilled spirits shipped
16 directly to a resident of this state shall be shipped by a
17 holder of a native distilled spirits carrier permit as provided
18 in section 123.43C.

19 *e.* Shipment of native distilled spirits pursuant to this
20 subsection does not require a refund value for beverage
21 container control purposes under chapter 455C.

22 4. A direct shipper permittee shall be deemed to have
23 consented to the jurisdiction of the division or any other
24 agency or court in this state concerning enforcement of this
25 section and any related laws, rules, or regulations. A permit
26 holder shall allow the division to perform an audit of shipping
27 records upon request.

28 5. A violation of this section shall subject the permittee
29 to the general penalties provided in this chapter and shall
30 constitute grounds for imposition of a civil penalty or
31 suspension or revocation of the permit pursuant to section
32 123.39.

33 Sec. 5. NEW SECTION. 123.43C Native distilled spirits
34 carrier — permit and requirements.

35 1. A person desiring to deliver native distilled spirits

1 subject to direct shipment within this state pursuant to
2 section 123.43B shall submit an application for a native
3 distilled spirits carrier permit electronically, or in a manner
4 prescribed by the administrator, which shall be accompanied by
5 a fee in the amount of one hundred dollars.

6 2. The administrator may in accordance with this chapter
7 issue a native distilled spirits carrier permit which shall
8 be valid for one year from the date of issuance unless it is
9 sooner suspended or revoked for a violation of this chapter.

10 3. A permit issued pursuant to this section may be
11 renewed annually by submitting a renewal application with the
12 administrator in a manner prescribed by the administrator,
13 accompanied by the one hundred dollar permit fee.

14 4. The delivery of native distilled spirits pursuant to
15 this section shall be subject to the following requirements and
16 restrictions:

17 a. A native distilled spirits carrier permittee shall not
18 deliver native distilled spirits to any person under twenty-one
19 years of age, or to any person who either is or appears to be in
20 an intoxicated state or condition.

21 b. A native distilled spirits carrier permittee shall obtain
22 valid proof of identity and age prior to delivery, and shall
23 obtain the signature of an adult as a condition of delivery.

24 c. A native distilled spirits carrier permittee shall
25 maintain records of native distilled spirits shipped which
26 include the permit number and name of the native distilled
27 spirits manufacturer, quantity of native distilled spirits
28 shipped, recipient's name and address, and an electronic or
29 paper form of signature from the recipient of the native
30 distilled spirits. Records shall be submitted to the division
31 on a monthly basis in a form and manner to be determined by the
32 division.

33 5. A violation of this section shall subject the permittee
34 to the general penalties provided in this chapter and shall
35 constitute grounds for imposition of a civil penalty or

1 suspension or revocation of the permit pursuant to section
2 123.39.

3 Sec. 6. Section 123.46A, subsection 4, Code 2021, is amended
4 to read as follows:

5 4. Nothing in this section shall impact the direct shipment
6 of wine as regulated by section 123.187 or direct shipment of
7 native distilled spirits as regulated by section 123.89.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill authorizes a manufacturer of native distilled
12 spirits licensed or permitted pursuant to state laws regulating
13 alcoholic beverages to apply for a direct shipper permit. All
14 shipments of native distilled spirits shall be made through
15 the state's wholesale distribution system. A direct shipper
16 permit is required in order to sell native distilled spirits at
17 retail for direct shipment to any person within the state or
18 another state. The annual permit fee is \$25. A direct shipper
19 license allows a licensee to ship native distilled spirits to
20 a resident of this state who is at least 21 years of age, for
21 the resident's personal use and consumption and not for resale.
22 The bill requires that native distilled spirits subject to
23 direct shipping be properly registered, manufactured on the
24 premises of the direct shipper permittee, and conspicuously
25 labeled as set out in the bill.

26 The bill establishes a native distilled spirits carrier
27 permit for persons to deliver native distilled spirits subject
28 to direct shipment within Iowa. The annual permit fee is \$100.
29 The bill requires that a carrier permittee not deliver native
30 distilled spirits to any person under 21 years of age, or to
31 any person who either is or appears to be in an intoxicated
32 state or condition; obtain valid proof of identity and age
33 prior to delivery and obtain the signature of an adult as
34 a condition of delivery; and maintain shipping records as
35 provided in the bill.

1 The bill modifies the definition of "native distilled
2 spirits" by striking references to fermenting and distilling
3 spirits and instead including manufacturing of spirits. Under
4 current law, "manufacture" means to distill, rectify, ferment,
5 brew, make, mix, concoct, or process any substance capable
6 of producing a beverage containing more than one-half of one
7 percent of alcohol by volume and includes blending, bottling,
8 or the preparation for sale.

9 Penalty provisions of Code chapter 123, including a civil
10 penalty of up to \$1,000 or suspension or revocation of a
11 permit, are made applicable to the permits established by the
12 bill.